

**STATE OF MICHIGAN**  
**DEPARTMENT OF LABOR & ECONOMIC GROWTH**  
**OFFICE OF FINANCIAL AND INSURANCE REGULATION**  
**Before the Commissioner of Financial and Insurance Regulation**

In the matter of

XXXXX

Petitioner

File No. 91229-001

v

Blue Cross Blue Shield of Michigan  
Respondent

/

Issued and entered  
this 18<sup>th</sup> day of September 2008  
by Ken Ross  
Commissioner

**ORDER**

**I**  
**PROCEDURAL BACKGROUND**

On July 29, 2008, XXXXX, authorized representative of XXXXX (Petitioner), filed a request for external review with the Commissioner of Financial and Insurance Regulation under the Patient's Right to Independent Review Act, MCL 550.1901 *et seq.* The Commissioner reviewed the request and accepted it on August 5, 2008.

The Commissioner notified BCBSM of the external review and requested the information used in making its adverse determination. The Commissioner received BCBSM's response on August 12, 2008.

The issue in this external review can be decided by a contractual analysis. The contracts here are the Community Blue Group Benefit Certificate (medical certificate) and the Dental Options Group Benefit Certificate (dental certificate), the contracts that define the Petitioner's health and dental benefits. A rider to the dental certificate, DO-25/50-1000-OS Dental Options-25%/50% Copayments/\$1000 Annual Maximum-Orthodontic Services (the rider), also applies. The

Commissioner reviews contractual issues pursuant to MCL 550.1911(7). This matter does not require a medical opinion from an independent review organization.

## **II FACTUAL BACKGROUND**

The Petitioner was diagnosed with throat cancer in 2007 and on May 29, 2007, he had 11 teeth extracted because of the cancer. BCBSM paid for the extractions under the medical certificate.

On October 10, 2007, the Petitioner was provided partial dentures. The total charge for the dentures was \$1,900.00. BCBSM denied payment for the dentures under the medical certificate but paid \$317.00 of their cost under the dental certificate. The \$317.00 represented the remaining balance available of the Petitioner's \$1000.00 maximum annual benefit for 2007 under the dental certificate. After BCBSM's payment, the Petitioner was left responsible for \$1,583.00 of the charge for the dentures.

The Petitioner appealed BCBSM's decision to deny coverage under the medical certificate. BCBSM held a managerial-level conference on July 1, 2008, and issued a final adverse determination dated July 2, 2008.

## **III ISSUE**

Is BCBSM required to cover any additional amount for the Petitioner's partial dentures?

## **IV ANALYSIS**

### **Petitioner's Argument**

The Petitioner believes that the charge for the partial dentures should be covered under his medical certificate and not the dental certificate. He believes that the purpose of insurance is to help make a person whole and argues that teeth are necessary for a whole person to eat properly. In his view, chewing is the first and arguably most important step in the digestive process.

The Petitioner also argues that if the cancer had required the amputation of an arm or leg; the prosthesis would be covered as medically necessary under durable medical equipment. He believes that his dentures should be considered a prosthesis. The Petitioner also notes that BCBSM pays for breast reconstruction after breast cancer even though it is considered to be cosmetic but will not pay for his partial dentures which are medically necessary.

Finally, the Petitioner points out that BCBSM covers his prescription for formula that costs around \$460.00 per month or roughly \$5,520.00 per year, and argues that by covering the cost of his dentures he will not need the formula and will save BCBSM money. The Petitioner believes that both he and BCBSM will benefit if BCBSM will cover the cost of his dentures.

#### BCBSM's Argument

BCBSM cites provisions in the medical and dental certificates and the rider as the basis for its decision. Section 4 of medical certificate, "Coverage for Physician and Other Professional Provider Services," has this language (page 4.23):

**The following services are not payable:**

\* \* \*

- Dental care (except to treat accidental injuries or multiple extractions requiring hospitalization)

In Section 7 of the medical certificate (page 7.6), "dental care" is defined as:

Care given to diagnose, treat, restore, fill, remove or replace teeth or the structures supporting the teeth, including changing the bite or position of the teeth. [Emphasis added]

In the dental certificate, under "Section 3: Coverage for Dental Services," it says:

**Class III**

**Type B Prosthodontic Services**

We pay our approved amount for the services listed below when performed by a dentist in connection with the construction or replacement of permanent bridges and complete or partial dentures prescribed and furnished by a dentist:

- Removable complete dentures, once every 60 months

- Removable partial dentures, once every 60 months

And in the rider, in "Section 2: Annual and Lifetime Benefit Maximums." It says:

- The annual benefit maximum under this rider is \$1000 per member, per calendar year. Only Class I, II and III dental services are applied to this maximum. Once we have paid the annual benefit maximum, we will not pay claims for that member for the remainder of the year. \* \* \*

BCBSM says that under the terms of medical certificate cited above, dental care is excluded except to treat accidental injuries or multiple extractions requiring hospitalization. Since the Petitioner's partial dentures are included in the medical certificate's definition of dental care and do not fall under the exception for accidental injury, they are not a covered benefit.

Partial dentures are covered under the dental benefit certificate and its rider. However, the Petitioner had already used \$683.00 of his 2007 dental maximum of \$1,000.00 when he received the dentures. Thus, BCBSM says it is only required to cover up to \$317.00 for his partial dentures.

BCBSM argues that the it paid the correct amount for the Petitioner's partial dentures as required by the contract language,

#### Commissioner's Review

The Petitioner argues that his partial dentures should be covered under the medical certificate. However, that certificate is primarily for medical and surgical care; it provides only very limited coverage for dental treatment. Partial dentures could only be covered under the medical certificate if they were required because of an accidental injury. Since the Petitioner's need for dentures resulted from cancer treatment, the Commissioner concludes that they are not a benefit under the medical certificate.

The partial dentures are a covered benefit under the dental certificate and the rider. However, by paying \$317.00 toward the Petitioner's dentures, BCBSM met its obligation to pay a \$1,000.00 annual maximum for dental care in 2007.

The Commissioner finds that BCBSM has correctly covered the Petitioner's partial dentures under the terms and conditions of both certificates and the rider and is not required to pay any

additional amount.

**V  
ORDER**

BCBSM's final adverse determination of July 2, 2008, is upheld. BCBSM is not required to pay any additional amount for the Petitioner's October 10, 2007 dentures.

This is a final decision of an administrative agency. Under MCL 550.1915, any person aggrieved by this Order may seek judicial review no later than sixty days from the date of this Order in the circuit court for the county where the covered person resides or in the circuit court of Ingham County. A copy of the petition for judicial review should be sent to the Commissioner of the Office of Financial and Insurance Regulation, Health Plans Division, Post Office Box 30220, Lansing, MI 48909-7720.